

REMARKS

Claims 1-33 are pending in this application. By this Amendment, claims 1-3, 5, 6, 9, 10, 12, 14, 16, 21 and 24-28 are amended. Claims 29-33 are added. No new matter is added as the amendments are supported by at least the claims as originally filed, or are made to correct informalities in the pending claims. The added claims are supported by Applicants' disclosure at least at page 7, lines 15-17, page 6, lines 11-15, and page 17, lines 21-25, as originally filed. Claims 16-28 are currently withdrawn as drawn to non-elected groups of claims. Applicants respectfully request that, upon finding claims 1-15 allowable for the reasons set forth below, claims 16-28 should be rejoined and allowed as well. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 3, asserts a Restriction Requirement between the following groups: Group I, claims 1-15, drawn to a device for receiving a fluid sample; Group II, claims 16-24, drawn to a process for sampling and transporting a fluid sample; and Group III, claims 25-28, drawn to a process for forming an electrochemical cell. Applicants confirm their election of Group I, claims 1-15, with traverse. As such, Applicants understand that claims 16-28 are withdrawn from consideration at this time.

It is respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claimsspecies. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in

order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Accordingly, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

The Office Action, on page 3, objects to claim 14 for an alleged informality. Claim 14 is amended, as suggested by the Office Action, to obviate the objection. Withdrawal of the objection to claim 14 is respectfully requested.

The Office Action, on page 4, rejects claims 1-15 under 35 U.S.C. §112, second paragraph as allegedly being indefinite. Claims 1, 2 and 6 are amended to obviate the rejections of these claims, and any claims depending therefrom.

With regard to the rejection of claim 9, Fig. 12, and Applicants' disclosure at page 26, lines 16-19, teach an embodiment in which the sleeve (62) is made of a conducting material with the protruding part coated with a layer of electrically-insulating hydrophobic material (67). This provides ample explanation regarding features recited in claim 9 for the Examiner's consideration.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-15 under 35 U.S.C. §112, second paragraph, are respectfully requested.

The Office Action, on page 5, rejects claims 1-9, 12 and 13 under 35 U.S.C. §103(a) as allegedly being unpatentable over WO 00/25923 to Moore et al. (hereinafter "Moore"). The Office Action, on page 7, rejects claims 10, 11, 14 and 15 under 35 U.S.C. §103(a) as allegedly being unpatentable over Moore in view of U.S. Patent Application Publication No. 2001/0010206 to Vann et al. (hereinafter "Vann"). These rejections are respectfully traversed.

The Office Action, with specific reference to, for example, Fig. 9 of Moore alleges that Moore teaches many of the features positively recited in independent claim 1. The Office

Action concedes, however, that Moore "does not specifically teaches [sic] the device is configured to form an electrode, but, however, [sic] Moore et al. teaches the hydrophilic layer is comprised of amorphous carbon or platinum metal ... which is formed around the recess. Amorphous carbon or platinum metal are inherently electrically conductive and thus, it would be obvious the dropping tool can be configured to form an electrode." The analysis of the Office Action fails for at least the following reasons.

In the embodiment of Fig. 9, Moore does not teach, nor otherwise would it have suggested, that the hydrophilic material may be electrically conducting. The Office Action refers to the disclosure of Moore at page 8, lines 1-3, in which Moore describes that the layer 128 may be made of hydrogenated amorphous carbon. However, this passage refers to the embodiment shown in Fig. 12, in which no cavity is provided. The Office Action separately refers to a passage on page 4, describing Fig. 5, *i.e.*, in the third paragraph, which describes hydrophilic material 58 may be platinum metal. The Office Action specifically acknowledges that this is the description of Fig. 5. The Office Action fails to point out, however, that no cavity exists in the embodiment shown in Fig. 5 either.

In this regard, there is nothing in Moore that can be considered to suggest that amorphous carbon or platinum metal may be used for the hydrophilic layer 98 of the embodiment of Fig. 9. To the contrary, in Moore, different references have been used to distinguish the hydrophilic layers in the different representative embodiments. Based on the Office Action's assertion that there is some inherently disclosed feature, the feature must "necessarily flow" from the disclosure of Moore of an electrically conductive layer associated with the cavity. Moore fails to present such a disclosure that would reasonably have suggested this particular combination of features in any of the specifically-disclosed embodiments. Further, the various embodiments of Moore are not presented in a manner that one of ordinary skill in the art would consider, or otherwise understand, that their specifically-

disclosed features could be randomly combinable in the manner suggested by the Office Action.

Further, claim 1 refers to a device that is configured so as to form an electrode in an electrochemical cell. It should be noted that Moore does not deal with electrochemical cells, or electrodes. In particular, in several embodiments in Moore, a hydrophobic coating such as Teflon covers an entire exterior surface of a pin. *See, e.g.*, the last paragraph on page 2, the first paragraph of page 5, the last paragraph of page 6, the third paragraph of page 7, and/or the first paragraph of page 8. The pin described in Moore is not, in this regard, adapted to be used as an electrode. In addition, one of ordinary skill in the art would have reasonably read the disclosure of Moore as teaching away from interrupting the disclosed hydrophobic coating so that the pin of Moore may be used as an electrode.

Finally, Moore does not even make a passing reference to any depth of a cavity. The assertion in the Office Action that the depth of a cavity and/or a diameter opening may be determined from the liquid drop size is without proper evidentiary basis. Particularly, the depth of the cavity does not need to be in a range of 0.1 mm or less to retain a liquid drop having a size of 0.1 mm. The cavity does not need to have a diameter opening of 0.1 mm or greater to retain a liquid drop of a size of 0.1 mm either. Certainly, Moore cannot reasonably be considered to teach, or otherwise to have suggested, the cavity depth/opening diameter ratio recited in independent claim 1.

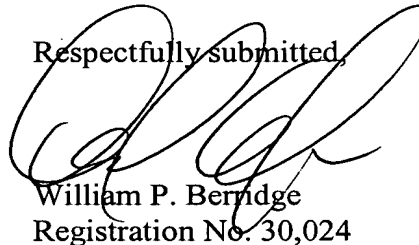
For at least the foregoing reasons, claim 1, and the claims depending therefrom, are allowable over Moore, or Moore in combination with Vann. Accordingly, reconsideration and withdrawal of the rejections of claims 1-15 under 35 U.S.C. §103(a) as being unpatentable over Moore, or Moore and Vann, are respectfully requested.

Added claims 29-33 are patentable for at least the respective dependence of these claims on allowable base claims, as well as for the separately patentable subject matter each of these claims recites.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-15 and 29-33, and rejoinder and allowance of claims 16-28, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Amendment Transmittal
Petition for Extension of Time

WPB:DAT/ysg

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